

## **End-Use Monitoring of Defense Articles and Services Government-to-Government Services**

### Introduction

In 1996, Congress amended [Public Law 104-164] Section 40A [22 U.S.C. 2785] of the Arms Export Control Act (AECA) requiring the President to establish a program that provides for the End-Use Monitoring (EUM) of defense articles and defense services sold, leased, or exported under the AECA or under the Foreign Assistance Act (FAA) of 1961. Section 40A requires that to the extent practicable, such programs be designed to provide reasonable assurances that the recipient is complying with the requirements imposed by the United States Government (USG) with respect to the use, transfer, and security of defense articles and defense services, and that such articles and services are being used for the purpose for which they were provided. Section 40A also requires an annual report to Congress on the actions taken to implement the EUM program, to include detailed accounting of costs and number of personnel associated with the monitoring program.

This report describes the actions the Department of Defense (DoD) is taking to comply with AECA EUM requirements for defense articles and services transferred through the Foreign Military Sales (FMS) program. As required by Section 40A, this report is submitted under section 634 of the Foreign Assistance Act of 1961 [22 U.S.C. 2394]

### **1. Actions Taken to Implement an EUM Program**

As the designated DoD lead for implementing and managing an EUM program, the Director, Defense Security Cooperation Agency (DSCA) established the Golden Sentry Program in 2001 to comply with Section 40A of the AECA. Through the Golden Sentry Program, DoD monitors government-to-government transfers to ensure defense articles and services provided by the USG are used and safeguarded in accordance with the terms and conditions of the transfer agreements. DSCA's primary objectives for the Golden Sentry Program are to minimize security risks to the U.S., its friends and allies, and to ensure compliance with the technology control requirements associated with U.S.-origin arms transfers via government-to-government programs. DSCA established the Golden Sentry Program focusing on a holistic approach of the transfer process in order to effectively achieve objectives. As a result, the Golden Sentry Program includes policy, processes, and other requirements prior to, during, and after the transfer of defense articles and services.

Chapter 8 of DSCA's Security Assistance Management Manual (SAMM) outlines Golden Sentry policy requirements and roles and responsibilities of the Security Cooperation community as it pertains to EUM during each part of the transfer process. The program levies monitoring and compliance requirements on foreign governments, agencies within the U.S. military departments (MILDEPs) responsible for implementing FMS or other DoD-managed programs, the Combatant Commands (CCMDs), and U.S. security cooperation organizations (SCOs) worldwide. DSCA has also implemented DoD Instruction 4140.66, Registration and End-Use Monitoring of Defense Articles and/or Defense Services, to establish a registration and monitoring system for all defense articles exported to Iraq, Afghanistan, and Pakistan, as mandated by Section 1228 of Public Law 110-181, "National Defense Authorization Act for Fiscal Year 2008," and Section 1225 of Public Law 111-84, "National Defense Authorization Act for Fiscal Year 2010."

DSCA monitors and ensures DoD compliance with the Golden Sentry Program through Compliance Assessment Visits (CAVs) and Focused Verification Checks (FVCs). During a CAV or FVC, DSCA assesses the SCO's compliance with DoD policy and ensures that our foreign partners are

following proper end-use, security and accountability procedures. CAVs are also used by DSCA as a mechanism to assess the effectiveness of the Golden Sentry Program, and identify areas for improvement.

#### DoD Processes *Prior* to Any Transfer - Pre-checks and Vetting

*Country Team Assessments:* When a foreign partner requests significant military equipment it may require a Country Team assessment. The U.S. country team, in close coordination with the Combatant Command, conducts an evaluation to assess the partner's ability and willingness to protect U.S. technologies and the intended "end-use" of the defense article. The evaluation will consider political impacts in the region as well as the ability of the partner nation and the in-country security assistance organization to properly perform their EUM responsibilities. The endorsement of the CCMD and consistency with the Theater Security Cooperation strategy and implementation plans is critical.

*Releasability, Disclosure, and Technology Reviews:* Given the serious consequences of the proliferation of dangerous weapons and technologies, DoD and the Department of State (DoS) thoroughly review transfers of highly sensitive technologies before offering the capability to a partner nation. Each proposed transfer is thoroughly vetted by various interagency organizations and offices to ensure releasability, disclosure, and other concerns are addressed.

*Congressional Notifications:* Finally, for transfers that meet specific thresholds, a formal notification is provided to Congress before offers of transfer are made. These notifications clearly identify the customer and the capability being proposed for transfer and provide an opportunity for further discussion or Congressional disapproval of a proposed transfer.

#### DoD Processes *During* Transfer – End-Use Assurances

All transfers of defense articles, services, or training provided through the FMS program are executed through a Letter of Offer and Acceptance (LOA) between the United States and the foreign government or international organization. This agreement specifies the type and quantities of items to be exported, as well as the recipient's end-use, transfer and security obligations. For exports requiring special monitoring controls, the LOA may contain special provisos regarding the physical security, accountability, movement and other security and protection requirements for the defense articles or services transferred. The conditions of the LOA also state that USG officials may be permitted, upon request, to conduct EUM verification with respect to the use, transfer and security of defense articles and defense services transferred, and conduct physical inventories of specific types of equipment--either as part of routine visits or to verify reports of unauthorized use. Signing the LOA commits the purchaser to the terms and conditions established in the LOA. DoD remains sensitive to issues of sovereignty with all U.S. friends and allies and, therefore efforts are constantly made to ensure that these governments are informed and understand the requirements of end-use monitoring mandated by U.S. law.

#### DoD Processes *After* Transfer – Post Delivery End-Use Monitoring and Compliance Verification

Post-delivery monitoring activities are dependent on the level of monitoring required. At a minimum, all defense articles are subject to routine monitoring. Some defense articles are subject to enhanced end use monitoring due to the nature and sensitivity of the technology associated with the article. As the DoD representative in country, the Security Cooperation Officer is responsible for ensuring both routine and enhanced end use monitoring is accomplished and documented.

*Routine EUM:* U.S. personnel assigned to SCOs at embassies worldwide are required to conduct Routine EUM checks to verify end-use, accountability and protection of U.S.-origin defense articles and are required to report any potential misuse or illegal transfer. SCO personnel perform Routine EUM

checks in conjunction with other security cooperation functions, during visits to the partner nation's installations, through interaction with other assigned U.S. Embassy personnel, and from any other readily available or opportune source of information. The emphasis is on specific categories of defense items including Battle Tanks, Armored Combat Vehicles, Large Caliber Artillery Systems, Military Fixed Wing Aircraft and Helicopters, Unmanned Aerial Vehicles, Warships and Military Vessels, Missiles and Missile Systems, Military Vehicles, Bombs, Crew Served and Individual Weapons and Platform-mounted Night Vision Systems.

*Enhanced EUM:* For specifically designated defense articles, the Golden Sentry Program has established a regime of physical security and inventory checks, or Enhanced EUM (EEUM). SCO personnel conduct EEUM through planned/coordinated visits to the partner nation's installations. This includes conducting serial number inventories of EEUM-designated defense articles when they are first delivered in-country and annually, thereafter. It also includes conducting physical security checks of weapons storage facilities or other areas where EEUM-designated items are kept.

EEUM is based on the principle of trust with verification, and is required for defense articles and services or individual transfers specifically designated for EEUM by the MILDEP's export policy, the Inter-agency release process, or by DoD policy as a result of consultation with Congress. Other defense articles may require EEUM on a case-by-case basis as a result of the transfer approval process. All EEUM-designated defense articles are required to be sold on defined order lines using an EEUM-coded Military Articles and Services Listing (MASL) and are accompanied by specialized physical security and accountability notes. Currently, EEUM-designated items include Communications Security (COMSEC) equipment; night vision devices (NVDs); man-portable air defense systems (MANPADS) such as the Stinger missile; long range, highly capable anti-tank missiles such as Javelin and TOW-2B; beyond visual range air-to-air missiles such as the AMRAAM and AIM-9X Sidewinder and spare Guidance Control Units (GCUs); cruise missiles such as the Harpoon Block II, Joint Air-to-Surface Standoff Missile (JASSM), Joint Stand-Off Weapon (JSOW), and Tomahawk; ballistic missiles such as the Standard Missile-3 (SM-3), Standard Missiles-6 (SM-6), and Terminal High Altitude Area Defense (THAAD); Unmanned Aircraft Systems (UAS) designated as Category 1 by the Missile Technology Control Regime (MTCR), or as specified in the LOA such as Reaper, Global Hawk and Predator; the Lethal Miniature Aerial Missile System (LMAMS) Switchblade, aircraft counter-measures equipment such as the Large Aircraft Infrared Countermeasures (LAIRCM) system or the Advanced Threat Infrared Countermeasures (ATIRCM) System and Small Diameter Bomb, Increment Two (SDB-II) / GBU-53.

The Golden Sentry Program employs an EUM application in the Security Cooperation Information Portal (SCIP) to maintain data on the defense articles monitored through Routine EUM and EEUM. The SCIP-EUM database is the sole repository for SCO-conducted EEUM inventories by serial numbers and other data such as information about when items are expended in testing, training or combat, destroyed, or lost. This data is maintained from the time an EEUM-designated item is received in-country until its final disposition. SCIP-EUM also provides other functionalities to the security assistance/cooperation community which allows the implementing agencies, CCMDs and SCOs to view EEUM data in a real-time, secure (controlled access) and compartmentalized environment via the web. The EUM functions help notify users when items are received and inventoried, and provide a variety of other standard reports. SCIP-EUM also provides summary and detailed information regarding the SCOs' compliance with annual inventories and allows authorized users to enter, update, change the disposition, and indicate transfers of EEUM-designated items.

## **2. Detailed Accounting of Program Cost and Personnel**

*Resources:* DSCA employs six full-time civilian employees to develop policy guidance, implement the Golden Sentry Program worldwide, conduct CAVs within each CCMD's designated

region, and provide training to security cooperation personnel assigned to U.S. Embassies. Additionally, three contractor personnel were required to operate, maintain, and develop necessary software applications for the SCIP-EUM database. Over 347 SCO personnel performed EUM functions to support the Golden Sentry Program as part of their security cooperation duties.

*EUM Funding:* Within DSCA Headquarters, \$1.57 million was spent in FY20 for civilian salaries, travel, training and contractor support. Within the CCMDs, \$175.6 thousand was spent in FY20 for travel related costs by SCO personnel to perform EEUM and attend training.

FY20 Actuals

	<b>ACTUAL FY20 EEUM OBLIGATIONS (in thousands)</b>
USCENTCOM	26.6
USEUCOM	91.8
USNORTHCOM	2.8
USINDOPACOM	41.7
USSOUTHCOM	15.5
USAFRICOM	1.0
<b>TOTAL</b>	<b>179.4</b>

*Review of Transfer Agreements:* During FY20, DSCA Golden Sentry personnel reviewed over 545 LOAs and other transfer agreements, such as Special Security Agreements, to verify quantities and types of EEUM-designated defense articles transferred; ensure that all LOAs specify the recipients' commitment to provide appropriate end-use and protection of the defense articles transferred; and ensure USG access for monitoring compliance.

*Improved Database Utilization:* DSCA incorporated the following enhancements to SCIP-EUM database in FY20.

1. Modified the database to enable the DoS to directly input data related to their consideration of any investigation of a potential violation of Section 3 of the AECA. Enabling DoS to directly input data improves interagency communication to ensure an accurate and common understanding of the status ongoing investigations.
2. Developed a new database module and methodology to record various risks factors and EUM Program shortfalls to assist the EUM Program Managers prioritize the scheduling of future Compliance Assessment Visits (CAV) selections.
3. Created various EUM Dashboards to better inform leadership decision making, enhance awareness of various program areas, and facilitate identification of areas for process improvement.
4. Created a tool for the SCOs to keep track of when a foreign partner's defense articles are scheduled for return from an operational deployment for storage or maintenance. This tracking enhancement will help SCOs accomplish timely periodic accountability checks of transferred defense articles frequently deployed to areas inaccessible to DoD personnel.

*SCO Annual EEUM Checks:* During FY20, SCO personnel assigned to U.S. Embassies in over 99 countries conducted over 2,091 physical security checks of storage facilities and accountability inventories of over 217,100 defense articles designated for EEUM worldwide.

*EUM CAVs Conducted in FY20:* DSCA Golden Sentry personnel conducted CAVs in Australia, El Salvador, Estonia, Jamaica, Malta, New Zealand, Panama, and Taiwan.

The CAVs' objectives were the following:

1. Assess the SCO's compliance with the policies and procedures of DoD's EUM program.
2. Assess the country's compliance with specific end-use, security and accountability provisos for transfers of EEUM-designated weapons and technologies.
3. Conduct routine and special inventories of U.S.-origin defense articles and/or services.
4. Appraise possible violations of the AECA, FAA, and/or other transfer instruments, e.g., bi-lateral memorandum of agreement or other implementing agreements.

*Findings Related to Transfer of Small Arms and Light Weapons:* DoD's FY20 EUM efforts did not yield any compliance issues or concerns related to transfers of small arms and light weapons.

#### The Way Ahead – FY21 CAVs

The Golden Sentry Program will continue its CAV and FVC program to ensure that recipients of defense articles and defense services comply with the transfer provisos and other conditions of sales, and/or to follow-up potential violations of the AECA, the FAA, or other transfer agreements. These assessments will also continue to ensure USG organizations develop and maintain the necessary procedures and practices to comply with the Golden Sentry Program.

Potential EUM CAVs planned for FY21 if not delayed by COVID-19 travel restrictions: Bangladesh, Canada, Ecuador, Egypt, Ethiopia, Fiji (& Tonga), Italy, Japan, Moldova, Pakistan, Paraguay, Qatar, Saudi Arabia, Serbia, Trinidad and Tobago, Ukraine, and Uzbekistan.